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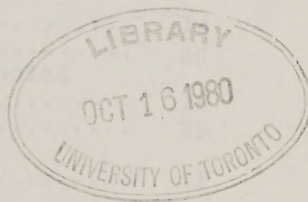
TOWARDS THE TWENTY FIRST CENTURY -- TOGETHER

THE POSITION OF THE

GOVERNMENT OF NEWFOUNDLAND

REGARDING

CONSTITUTIONAL CHANGE



THE HONOURABLE A. BRIAN PECKFORD


PREMIER & MINISTER FOR INTERGOVERNMENTAL AFFAIRS

St. John's

August 18, 1980

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PREFACE

In the following pages you will find a paper entitled "Towards the Twenty-First Century - Together". This paper outlines the position of your Government regarding constitutional change.

As you are aware, during the past several years there has been continuing discussion on the need for a new constitution for Canada. This process was given a new thrust after the people of Quebec demonstrated their act of faith in Canada in the recent referendum.

Your Government has participated positively and actively in the constitutional discussions of the past several months. The people of Newfoundland and Labrador are equally citizens of Canada and of this Province. As Newfoundlanders we have a vital concern with matters affecting our people, our resources and our future. As loyal and proud Canadians, we also have a deep attachment to our country, its people and institutions.

I hope you will read, think about and discuss Newfoundland's constitutional position as outlined in the following pages. What I have attempted to do is to give an overview of the basic constitutional principles and values shared by the people of the Province and which, consequently, motivate your Government.

I look forward to hearing from as many of you as possible. Any views, suggestions or comments you might have with respect to this Province's constitutional position will be carefully considered. There are few issues more important for the future of our Province and our Country than those which will be determined during the constitutional process.

A. Brian Peckford,
Premier.

BASIC PRINCIPLES OF
NEWFOUNDLAND'S CONSTITUTIONAL POSITION

At the outset it is important to indicate the fundamental principles upon which the Constitutional position of the Government of Newfoundland is based. The Government believes the following to be of fundamental importance:

1. Parliamentary Democracy;
2. Balanced Federalism;
3. Equality of Opportunity for Provinces and People;
4. Consensus.

1. Parliamentary Democracy

The Government of Newfoundland, reflecting the view of the people of the Province, believes that the constitutional monarchy should continue as the basis of sovereignty and parliamentary democracy for the federal and provincial governments. Newfoundland's own constitutional history, from colonial rule to self-governing Dominion to union with Canada, is ample

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proof of the flexibility of our political system to evolve and adapt to changing needs. Within the federal context also, the Canadian Monarchy will continue to provide the governmental framework for a balanced federalism.

2. Balanced Federalism

The Newfoundland Government firmly believes in a federation where both the federal and provincial governments are strong and viable. The nation can only be as strong as its constituent parts. In the constitutional process, therefore, it is necessary for all eleven governments to agree upon a distribution of authority which will allow both the federal government and the provincial governments to fulfil their responsibilities effectively.

The Newfoundland Government does not view Canada as developing into a unitary state with all the power gravitating to the central government. Nor does it view Canada becoming a loose association of provinces which would emasculate the federal government and

deny Canada an effective voice in the forum of nations.

What is required is a realistic balance, a sharing of power so that the government with the most immediate connection, the most vital link with a resource or activity, will have the necessary authority. The identification of the appropriate balance is not a question of academic theorizing but rather one of realistic assessment. This balance will not be achieved by emulating other federal systems but by identifying the balance corresponding to our own experience and expectations, recognizing the unique nature of the Canadian experiment.

3. Equality of Opportunity for Provinces and People

The Newfoundland Government's approach to constitutional change is rooted in the belief that there must be equality of provinces and people. Whether large or small in area or population, whether recipient or contributor in the process of equalization, whether predominantly English-speaking or French-speaking, whether its resources are largely land-based or sea-based, the juridical equality of

the provinces is the foundation of our complex relationships.

Each province must have an equal right to maintain and develop its cultural roots and traditional values, not just as an object of folkloric interest but as the life blood of its peoples' identity. Similarly, the federal government must have the right to maintain and develop the national identity and traditions common to all Canadians.

The fact of duality - in official languages, in legal traditions, in social and cultural values - evolved from a unique history in Canada. It is this background which enriches and strengthens each part of the nation and, hence, the nation as a whole. Newfoundland supports the recognition of this duality in the constitution.

In accordance with the fundamental principle of the equality of provinces is the affirmation of the equality of people - the native people, the diverse multi-cultural population, people of both sexes and of

all origins, creeds and beliefs. In its people, their diversity and unity, lies the ultimate wealth of Canada.

Unfortunately, there is not equality among the provinces and people in Canada today. Most provinces, largely through constitutional amendment, have attained control of their natural resources and, hence, are in a position to maintain and develop their societies and economies as they deem necessary. Several provinces, including Newfoundland, have not as yet attained the same degree of control and, therefore, cannot develop their culture and heritage on an equal basis with other provinces. The new Canadian Constitution must reflect the principle of equality with respect to resources.

4. Consensus

Flowing from the commitment to these principles is the Government's conviction that a new constitution, reflecting the realities of today, can only evolve from the process of consensus.

The Government of Newfoundland believes that unilateral action by any one of the partners in the

federation is totally unacceptable. To succumb to the temptation of unilateral action would have the effect of creating greater divisions within the nation than now exist and of frustrating the aspirations of all Canadians who look to the process of constitutional reform as a means of strengthening and unifying the nation.

These four fundamental principles, parliamentary democracy, balanced federalism, equality of opportunity for provinces and people, and consensus are the cornerstones of the Newfoundland Government's constitutional position.

HUMAN RIGHTS AND FUNDAMENTAL PRINCIPLES

Charter of Rights

Citizens throughout Canada have traditionally enjoyed the exercise of democratic rights and fundamental freedoms. Rooted in enduring and shared ethical values, supported by the independence of the judiciary and the accountability of governments, and enshrined in the rule of law, it is unimaginable that any government in Canada would interfere with the freedom of Canadians. Yet the people of Canada - as elsewhere - live in an age of continuing, almost radical change. Today there is not the same surety as yesterday that values enshrined in the heart and conscience of a people will be universally respected.

The entrenchment of democratic rights and fundamental freedoms is a means of giving explicit constitutional recognition to values which have served Canada well. Newfoundland, therefore, supports a Charter of Rights which will entrench the democratic rights and fundamental freedoms of Canadians.

While explicit constitutional reference will have a significant normative value, the ultimate guarantee of liberty rests with the vigilance of the citizen, the accountability of government, the independence of the judiciary and the rule of law.

Statement of Principles

The Newfoundland Government believes that it is important that the Canadian Constitution recognize and encourage the diversity of contemporary Canada. It is equally important, however, that due recognition be given those principles which bind us together in a balanced federalism.

The Newfoundland Government, therefore, welcomes the opportunity to discuss and identify, with the other governments of Canada, those principles which constitute our common Canadian heritage and supports the incorporation of such a statement of principles, or preamble, in the Constitution as a guide to subsequent interpretation.

Equalization & Regional Disparities

One of the brightest hallmarks of the Canadian federal experience is the willingness to share with one another. The economic and legal term "equalization" hardly does justice to such a commitment.

There are provinces today contributing to equalization (through the federal taxation system) which only a few decades ago were recipients. Similarly, some provinces, including Newfoundland, are benefitting from the equalization policy but look forward enthusiastically to the opportunity to be contributors to the process. Such an opportunity will result from appropriate agreement on natural resources and on the distribution of powers.

The commitment to sharing which has characterized the Canadian federation requires the constitutional recognition that:

- (a) All eleven governments are committed to promoting equal opportunity, furthering

economic development to reduce disparities and providing essential public services to all Canadians.

- (b) There be reaffirmation of the policy of financially assisting those provinces which at any particular time do not have the economic base to bring them up to the national average.
- (c) There be affirmation of rights and policies which will permit all provinces to have an equal chance over time to be net contributors to the process.
- (d) There be a systematic review by First Ministers at least every five years.

The policy of sharing will continue to serve Canada well in the future as it has in the past. To it must be added the possibility of reciprocity so that all may contribute and all may share.

This can only be possible, however, if all

provinces have an equal chance to develop their resources. It cannot happen if some provinces have more control than others since then the disadvantaged provinces will never be in a position to be contributors to the process. The nation can never prosper as long as the poorer provinces are barred from ever attaining equality because they do not have the same degree of control over their resources as other provinces.

It is essential that each province have an equal opportunity to develop its resources. There must be a commitment to sharing so that as particular resources vary in value from time to time, each province has an equal chance to be a contributor when its resources are high in value and a recipient when they are not.

It is on this basis that the Government of Newfoundland fully supports the inclusion in the constitution of a commitment to sharing and to an equalization process.

RESOURCES

The Fishery

A singleness of purpose motivated those who first came to the shores of Newfoundland and Labrador. Two centuries were to pass before they could be called settlers, and even then their settlement was along the coves and inlets, harbours and ports, arms and sounds which indent the craggy coasts of the Province. It was such settlements, individually and collectively, that E.J. Pratt had in mind in his poem "Newfoundland":

Here the winds blow,
And here they die,
Not with that wild, exotic rage
That vainly sweeps untrodden shores,
But with familiar breath
Holding a partnership with life,
Resonant with the hopes of spring,
Pungent with the airs of harvest.

Men and women came to these outports of hopes and harvest - not to till the soil, not to hew the forests, not to prospect for minerals - but to harvest the living resources of the surrounding sea. It can be unequivocally stated that the fishery is the *raison d'être* of this Province.

While today men and women do work in the forest and mining industries, in the generation of hydro-electric power and increasingly in activities related to offshore mineral exploration, the fishery remains the backbone of the economy - the unifying thread in the social and cultural fabric of Newfoundland and Labrador. Small wonder, therefore, that the Newfoundland Government attaches such priority to recognition in the Constitution of Newfoundland's requirement for shared jurisdiction.

The Government of Newfoundland's proposal for the fishery may be indicated by the following propositions:

1. Each coastal province, because of its vital link with the living resources of the sea, should have the constitutionally recognized competence to participate in decision-making with respect to the harvesting and allocation of the fishery resource.
2. The fisheries should be an area of concurrent legislative jurisdiction with the federal

government having paramount authority regarding matters of national and international concern and with the provinces having paramount authority regarding matters of provincial and local concern.

3. In specific terms, the federal government would, therefore, have paramount authority regarding international negotiations, surveillance, international enforcement, basic research, conservation and the determination of total allowable catches, inspection and quality standards for exports and licensing of foreign vessels.
4. Each coastal province should have paramount authority regarding harvesting plans, the allocation of its share of fish stocks, the licensing of its own fishing boats, inland fisheries, aquaculture, marine plants and sedentary species.

5. The allocation between provinces of the total allowable catch for the various fish stocks would be determined by agreement between the provinces. In reaching such agreement, the principles of traditional fishing patterns, adjacency and dependence of coastal communities would be taken into account.
6. In the event that the provinces concerned were unable to reach an agreement, there would be an established mechanism for binding arbitration. The arbitration board would be required to give a decision on allocation based on the principles of equity, traditional fishing patterns, dependence of the coastal population and adjacency.

It should be clear from the above, therefore, that a number of misunderstandings which have surfaced regarding Newfoundland's fishery are not based on facts. The above principles clearly show that:

1. The Government of Newfoundland is not requesting ownership of any fish stocks. The proposal made relates only to legislative jurisdiction.
2. The Government of Newfoundland is not requesting exclusive provincial legislative jurisdiction relating to fisheries. Rather the proposal requests a sharing of the legislative jurisdiction.
3. The Government of Newfoundland recognizes the legitimate role of the federal government in many aspects of the fisheries and the degree of provincial involvement required would not undermine this legitimate federal involvement.
4. The Government of Newfoundland recognizes the historic rights and patterns of other Canadians. It also recognizes the migratory nature of many species of fish. The proposal made would not undermine whatever rights there may be in this regard and includes provision for an independent arbitration should any disagreements occur.

5. The proposal made would not "balkanize" the fisheries or lead to overfishing because the federal government would retain full authority regarding the conservation of fish stocks. Under the Newfoundland proposal, in fact, there would be less division in the fishery than in forestry, mining, and other natural resources, because of the overall conservation control maintained by the federal government which does not now exist for most other natural resources.

The Government of Newfoundland believes that the management of the Province's fishery resource must proceed from the basic principle that the people of the coastal communities of Newfoundland, and other coastal provinces, have a historic and moral right to the economic benefit which can be derived from those resources in its surrounding sea.

The vitality and course of development of the fisheries, more than any other sector, determines the economic base and the focus of social and cultural

development for virtually every coastal community. Therefore, decisions taken with respect to fisheries management and development have a pervasive effect on all sectors of the economy and determine whether communities will thrive.

Surely, it is the government of the coastal provinces which has the most vital link when the viability of coastal communities are involved. In the opinion of the Newfoundland Government, it is imperative that the coastal province participate in decision-making regarding this resource. This shared jurisdiction should be identified not as a privilege but as a constitutionally recognized right.

Offshore Resources

The Government of Newfoundland has consistently asserted its ownership of the mineral resources of its continental shelf. This assertion is founded on the fact that ownership of these resources resided with the Dominion of Newfoundland before confederation with the Dominion of Canada, and was not alienated from Newfoundland in that process.

The confirmation of Newfoundland's rights regarding the continental shelf during the current constitutional process is essential if the fundamental principles of balanced federalism and the equality of provinces and people are to be attained.

A major advance towards confirmation of these rights was accomplished in, September 1979, with the agreement by the federal government and the government of the Province on the following principles:

- "1. The Province of Newfoundland should own the mineral resources of the continental margin off its coast insofar as Canada is entitled to exercise sovereign rights over these resources in accordance with international law. Such ownership should be, to the extent possible, of the same nature as if these resources were located within the boundaries of the Province. The legislative jurisdiction of the Province should, to the extent possible, be the same as for those resources within the boundaries of the Province.
2. Such ownership of and legislative jurisdiction over offshore resources by Newfoundland will be consistent with and subject to the division of legislative competence as between Parliament and provincial legislatures under the Constitution of Canada.

3. Thus the legislative jurisdiction and responsibilities of the Government of Canada in areas such as the protection of the environment, national defence, customs and excise, shipping and navigation, external affairs, the management of international and interprovincial trade and pipelines, will continue.
4. The above principles will be further confirmed and implemented by the signing of an agreement between the Government of Canada and the Government of Newfoundland and by appropriate legislative action and constitutional change."

The importance to Newfoundland and the other coastal provinces of having offshore resources treated equally in constitutional terms with onshore resources cannot be overstressed. If this is not achieved, then a Province such as Newfoundland, where water covers a large percentage of its resources, can never attain equality with provinces where most of the resources are on land. Canada would then be comprised of a strong federal government, a majority of strong provinces and a minority of weak provinces.

It is evident from a review of Canadian history that the principle of equality of constitutional treatment with respect to resources is consistent with Canadian constitutional practice:

1. In 1867 when the British North America Act was enacted, it was explicitly stated that provinces should own and control all their resources and receive any rents or royalties relating to their development and exploitation.
2. In 1912 the constitution was amended to vastly increase the size of Quebec, Ontario and Manitoba by passing over to them ownership of the northlands and all the resources contained in them. For example, in 1867 Quebec was 193,355 square miles in size. Since that time transfers of territory through constitutional amendment have increased its size so that today it covers an area of 594,860 square miles.
3. In 1930 all the resources contained in Alberta, Saskatchewan and Manitoba were transferred to them by constitutional amendment. The explicit intent of this amendment was to make these provinces equal to the other existing provinces. It is stated in the amendment to the British

North America Act, 1930, that "it is desirable that the Province should be placed in a position of equality with the other provinces of Confederation with respect to the administration and control of its natural resources".

It is clear from these examples that a fundamental aspect of Confederation is that each province should control its natural resources and that all provinces should be treated equally in this respect. This was the situation in 1867 and subsequent constitutional practice has confirmed and strengthened that concept. These changes have not weakened Canada; rather they have strengthened it. Strong provinces make a viable nation.

It should also be recognized that Ontario, since Confederation, has owned and controlled the underwater resources of the Great Lakes. In fact, the world's first offshore well was drilled on the Canadian side of Lake Erie in 1913 and production of natural gas has continued to the present. Ontario's proprietary and legislative rights with respect to the resources of the lakebeds have never been questioned.

It should be remembered that the Great Lakes are international waterways. The facts of provincial ownership on the one hand and the federal exercise of jurisdiction over the international aspects of these waterways on the other hand have never come in conflict. Surely, the fact that the Great Lakes are international bodies of fresh water, while the water covering the mineral resource of Newfoundland's continental shelf and that of the other coastal provinces is salt, should not detract from equality of treatment.

The resolution of differences of opinion dividing the provinces and the federal government on questions relating to offshore resources will most appropriately be effected by the exercise of political will based on past constitutional practice.

There is no reason in logic or in equity why Newfoundland's offshore mineral rights should be questioned because the same resources which, in the case of some other provinces are located on land, are, in Newfoundland's case, located on the continental shelf.

Resource Ownership & Interprovincial Trade

The new Constitution must fully recognize the rights of the provinces regarding natural resources. This must also include the resources of the seabed and subsoil of the continental shelf.

The Government of Newfoundland recognizes the important and legitimate role of the federal government with respect to interprovincial trade. The degree of this authority must be balanced against provincial resource ownership so that the interests of both the federal and provincial governments are legitimately met.

This Province has seen the result of an inappropriate balance being drawn between federal and provincial interests with respect to the interprovincial trade in electrical energy as opposed to other forms of energy such as oil and gas. It insists that the new constitution reflect an equality of treatment for the transmission of energy resources, no matter what form that energy takes.

The Government of Newfoundland, therefore, supports the following principles regarding resource ownership and trade:

1. Provinces should have ownership of and control over their natural resources.
2. There should be exclusive provincial legislative jurisdiction over non-renewable resources, forests and production of electric energy.
3. There should be concurrent jurisdiction with provincial paramountcy in matters relating to trade in natural resources. The federal government would, however, have paramountcy regarding international trade and regarding interprovincial trade when a compelling national interest was clearly identified. The existing federal powers regarding emergency situations would be continued.

4. The provinces should have both direct and indirect taxing powers over these natural resources.

Powers Over the Economy

The Government of Newfoundland fully supports the need for a strong and effective federal government to manage the national economy and to preserve the Canadian economic union. The federal government presently has wide powers over trade and commerce as well as other important aspects of Canadian economic life in order to accomplish these objectives.

In addition to its existing powers, the federal government has proposed constitutional changes that will vastly expand their power and greatly decrease the legitimate exercise of present provincial powers. These proposals would, if implemented, prevent this Province from pursuing its affirmative action program with respect to offshore employment and its local preference policy for suppliers and contractors.

The Province views these policies of affirmative action and local preference as necessary to ensure that the unemployed residents of Newfoundland and its local companies are given an opportunity to participate in the development of the resources of its continental shelf.

The Government of Newfoundland rejects the proposition that the only Canadian government which can work to eliminate disparities in the nation is the federal government. The governments of the provinces, equally Canadian, should have the power to build up their local expertise and economy through the judicious use of affirmative action programs and local preference policies.

The Government of Newfoundland is concerned by the failure of the federal government to exercise powers it already has to maintain the economic union. This is evident in the federal government's failure to discharge its responsibility to ensure the unimpeded interprovincial transmission of electricity generated at the Churchill Falls power development.

A possible solution to the concerns which have been expressed by the federal government over the preservation of the economic union in Canada could be to have a constitutionally mandated provision for intergovernmental consultation on any perceived impediments to the union. Such a provision could include a commitment by all eleven governments to:

- (a) The maintenance and enhancement of the Canadian economic union to the extent possible;
- (b) The promotion, except for justifiable reasons, of the movement of persons, goods, services and capital; and
- (c) An ongoing, systematic and cooperative review of the operation of the Canadian economic union by all eleven governments.

The Government of Newfoundland supports the principle of the Canadian economic union and would agree that there be a constitutionally mandated provision for intergovernmental consultation on this matter.

PATRIATION AND AMENDING FORMULA

The Government of Newfoundland supports the patriation of the Canadian Constitution and the need to include an appropriate amending formula in the process.

Patriation is a logical and necessary consequence of agreement on important constitutional matters and it is especially important that there be prior agreement on the amending formula itself. The Newfoundland Government, therefore, views patriation as a meaningful act, the culmination of a consensus which will provide for the legitimate aspirations of all Canadians. However, to patriate without prior agreement on an appropriate amending formula and on other major constitutional issues would be merely a cosmetic gesture, without substance or meaning.

With regard to an appropriate amending formula, the position of the Government of Newfoundland is that:

1. The formula must reflect the principle that all provinces have equal constitu-

tional status. Therefore, any formula which is based on regions is unacceptable.

2. Newfoundland insists on recognition of its territorial integrity. The Government, therefore, will require a provision that there can be no alteration of a province's boundaries without the consent of the province affected.
3. Similarly, no change affecting a province's natural resources, property or legislative jurisdiction may be made without the consent of the province concerned.
4. There must be agreement that the amending formula itself cannot be changed without the unanimous consent of all governments.
5. For amendments other than the above, the formula should provide for change given the consent of Parliament plus two-thirds of the provinces representing a majority of the Canadian population.

INSTITUTIONS

The Government of Newfoundland fully supports constitutional change which will improve the status and legitimacy of the fundamental national institutions so that they more accurately reflect the Canadian mosaic.

The Senate

The Government of Newfoundland supports reform of the Senate and recommends that reform meet the following tests:

1. Representation in the Senate must be on the basis of provinces and not on a regional or other basis.
2. The relative membership of the Province in a reformed Senate compared to other provinces must not be adversely affected; in fact it is the Government's policy that the Province's relative position should be improved and that there should be equality of membership in a reformed Senate.

3. Any additional powers given to a reformed Senate must not derogate from intergovernmental mechanisms now in place, either at the First Ministers level or the Ministerial level.
4. No new authority should be given to the Senate at the expense of elected representatives to Parliament or the Legislatures. It should only exercise a suspensive veto for a fixed period of time.
5. The provinces should have a role in the appointment of representatives to the Senate.

The Province does not support greatly increased powers for a reformed Senate. Such powers, exercised by a centralized and appointed institution, can only detract from the role of intergovernmental meetings, where governments of all provinces, responsible to a

provincial electorate and located in each province, can accurately reflect provincial interests.

The Supreme Court

The Supreme Court is not presently entrenched in the Constitution; it is a creature of statute. The Province fully supports the entrenchment of the Court in the Constitution so that the highest Court in the land is fully protected from even the possibility of arbitrary treatment. It supports the reform of the Court to ensure that it accurately reflects the needs and aspirations of the country as a whole.

The Government also recognizes that the Court must reflect the two great legal traditions of Canada - the systems of civil and common law - and constitutional recognition must be given to that dualism.

Presently the statute governing the Court does not give equality of access to the provincial governments on the reference of constitutional questions. Constitutional entrenchment of the Supreme Court should ensure such equality of access.

There should be recognition of a full provincial role in the appointment of judges to the Supreme Court of Canada resident in the Province, as well as judges appointed to the Supreme Court and District Court of the Province. There must also be a right in a province to grant administrative tribunals sufficient authority to meet provincial requirements.

OTHER JURISDICTIONAL ISSUES

Family Law

The area of family law is presently shared between the provinces and the federal government. A number of provinces wish to have the authority to legislate on all areas of family law in order that an integrated approach may be taken by their courts.

The Government of Newfoundland prefers that jurisdiction over the grounds of divorce remain in the federal sphere. It does, however, recognize the aspirations of other provinces in this regard and accepts the proposal that there be concurrent federal and provincial jurisdiction over divorce, with provincial paramountcy where provinces decide to legislate. This province does not intend to so legislate and will allow the federal legislation to continue to apply.

The Province is satisfied that the current proposal, having as it does a paramount federal role in making rules for the recognition of divorces, will not permit "forum shopping" for provinces with easier rules for divorce.

The Government's acceptance of the proposal is based on its view that the present constitutional discussions must involve some give and take in order that the legitimate desires of all parties can be accommodated.

Communications

The British North America Act, 1867, refers only briefly to communications by assigning federal jurisdiction over telegraphs and other works and undertakings connecting provinces with one another. Since the 1867 Act is virtually silent on which order of government has jurisdiction, many of the jurisdictional questions which have arisen over the decades have been decided by the courts which have generally assigned most of the communications field to the federal authority.

While communications was not a major factor in drafting the 1867 Constitution, the growth of this sector in this century makes it imperative that there be a clarification of the constitutional rights of both the federal and provincial governments. Any constitutional changes should take cognizance of the legitimate aspirations of both orders of government.

It is apparent that provinces must have significant authority over communications so that the unique culture of each province is preserved and strengthened within the Canadian context. The Government of Newfoundland, therefore, supports the concept of concurrent jurisdiction in the communications field with the federal government having paramountcy regarding the national and international aspects of telecommunications and broadcasting and the provinces having paramountcy regarding the provincial and interprovincial aspects of these activities.

SUMMARY AND CONCLUSIONS

The Government of Newfoundland fully supports the need for major changes in the Canadian Confederation and approaches constitutional discussions in a positive, constructive and cooperative manner.

There are four fundamental principles which underlie Newfoundland's constitutional position.

These are:

1. The maintenance of parliamentary democracy as our system of Government.
2. A balanced federalism in which both the federal and provincial governments are strong, viable and capable of carrying out their responsibilities as defined in the constitution.
3. The principle of equality so that all provinces are equal with regard to the degree of control they have over their own social, political and economic destiny.

4. Recognition by all participants that the spirit of Canadian federalism requires that it be through consensus and cooperation that a new Constitution be reached. Unilateral action is unacceptable.

The main principles of Newfoundland's Constitutional position are:

- support for the principle of entrenching democratic rights and fundamental freedoms.
- inclusion in the Constitution of a statement of those principles which constitute our common Canadian heritage.
- constitutional entrenchment of the principle of equalization and commitment to the alleviation of regional disparities.
- constitutional recognition of the right of the coastal provinces to exercise shared jurisdiction in the fisheries.

- recognition in the Constitution of Canada that resources of a province's continental shelf be treated in the same manner as resources located on land.
- recognition in the Constitution of the Federal Government's legitimate interest in the regulation of interprovincial and international trade, with due regard to the principle of provincial resource ownership and jurisdictional rights.
- support of the principle of the Canadian economic union with the requirement that the union be maintained in a manner consistent with provincial policies of affirmative action and local preference.
- support for the patriation of the Constitution but only after agreement on major constitutional matters.
- requirement that an amending formula be based on the equality of provinces which will give

adequate protection to a province's territorial integrity, natural resources, property and legislative competence.

- support of Senate reform and entrenchment of the Supreme Court in the Constitution.
- recognition of the aspirations of a majority of provinces to have jurisdiction over grounds for divorce in the provincial area, contingent on the federal government maintaining concurrent jurisdiction over divorce and sole jurisdiction over the rules of recognition for divorce.
- support for an increased provincial role in communications so that the unique culture of Newfoundland and of other provinces can be preserved and strengthened in the Canadian context.

Newfoundland's approach to the Constitution, therefore, is oriented to the future - the twenty-first century which Canadians should share together.

The Government approaches the challenge of constitutional reform in a spirit of cooperation as an equal among equals. As Canada's newest province and as a people cherishing their own identity and values as well as sharing the Canadian ideals, Newfoundland looks forward confidently to contributing to Canada in the constitutional dialogue and in the larger context of Canadian national life.

